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OFFICE OF PETITIONS

In re Application of
Sandford D. Markowitz
Application No. 10/649,591
Filed: August 26, 2003
Attorney Docket No. CWRU-PO3-003

DECISION ON PETITION

This is a decision on the petition filed August 20, 2004, requesting, in effect, that a "Notice of Omitted Item(s)" mailed June 18, 2004, in the above-identified application be withdrawn.

The application was deposited on August 26, 2003. However, on June 18, 2004, Initial Patent Examination Division mailed a Notice stating that, while a filing date had been accorded the application papers, page seventeen (17) of the specification was missing from the application.

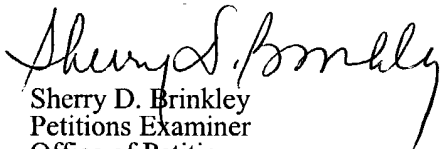
In response, on August 20, 2004, the present petition was filed wherein petitioner argues that a specification containing page 17 was submitted on filing. Petitioner requests that the application, including page seventeen of the specification, be accorded a filing date of August 26, 2003. A copy of page seventeen (17) of the specification accompanied the petition. In support, petitioner has submitted, *inter alia*, a copy of his postcard receipt. Petitioner acknowledges that his postcard receipt contains a notation that the first page of specification is missing; however, petitioner states "[g]iven the present Notice of Omitted Items is silent with respect to page one, Applicants presume that the PTO now considers page one to have been properly filed."

A further review of the application papers submitted August 26, 2003, confirm receipt of page 17 of the specification, as it is present in the image file wrapper (IFW). It is noted that page one of the specification is not present, which is consistent with the annotation on applicant's postcard receipt.

In view of the above, the petition is GRANTED to the extent that the Notice of June 18, 2004 was mailed in error with respect to page 17 of the specification. The Notice mailed June 18, 2004, is hereby VACATED. The petition fee, which was charged to counsel's deposit account, will be refunded thereto.

Since this file is an IFW, no forwarding of the file is necessary. An electronic message will be sent to the Office of Initial Patent Examination Division to mail a new Notice of Omitted Items in a Non Provisional Application with respect to page one (1) of the specification.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to Initial Patent Examination Division processing should be directed to their hotline at (703) 308-1202.


Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy